

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**SPECIALTY RESTORATION  
OF TEXAS, INC.**

**v.**

**PASS MARIANNE HOME OWNERS'  
ASSOCIATION and PASS MARIANNE,  
LLC**

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**PLAINTIFF**

**CAUSE NO. 1:09CV394 LG-RHW**

**DEFENDANTS**

**ORDER GRANTING MOTION TO DISMISS**

BEFORE THE COURT is the Defendants' Motion to Dismiss and For Attorney Fees [4].

The Plaintiff has responded in agreement that the case should be dismissed because of an arbitration clause in the contract governing the relationship between Plaintiff and Defendants. Plaintiff requests that the Court enter an order dismissing its claims without prejudice, and also deny an award of attorney's fees. After reviewing the portion of Defendants' motion concerning attorney's fees, the Court finds that the Defendants have not asked the Court for relief, but "would reserve the right to petition the Court for an award for attorney fees and costs" in the future. Thus, Defendants' motion for attorney's fees is not ripe at this time and will be denied.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the Defendants' Motion to Dismiss and For Attorney Fees [4] is **GRANTED** to the extent that this case is dismissed without prejudice, and **DENIED** in all other respects.

**SO ORDERED AND ADJUDGED** this the 19<sup>th</sup> day of November, 2009.

s/ *Louis Guirola, Jr.*  
LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE